STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1206

State of Minnesota,
Respondent,

vs.

Tyson Joe Hinckley,
Appellant.

Filed July 10, 2023
Affirmed
Gaïtas, Judge

Lyon County District Court
File No. 42-CR-19-737

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Abby Wikelius, Lyon County Attorney, Julianna F. Passe, Assistant County Attorney, Marshall, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Adam Lozeau, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Gaïtas, Judge; and Larson, Judge.

NONPRECEDENTIAL OPINION

GAÏTAS, Judge

Appellant Tyson Joe Hinckley appeals convictions for first-degree arson, second-degree burglary, and theft of a motor vehicle following a court trial. He argues that his convictions must be reversed because the district court erroneously denied him the

opportunity to present a mental-illness defense. Alternatively, he contends that the district court erred in sentencing him for motor-vehicle theft because the offense occurred during the same behavioral incident as the arson and burglary. Because the district court did not abuse its discretion in determining that Hinckley failed to satisfy the threshold requirement for presenting a mental-illness defense or err by imposing a separate sentence for motor-vehicle theft, we affirm.

FACTS

The Incidents

The underlying facts, as found by the district court, are as follows. On July 12, 2019, sheriff's deputies responded to reports of a residential garage fire in Lyon County. Upon arrival, one deputy found a man—later identified as Hinckley—covered in mud and scratches and wearing only boxer shorts. Hinckley had been reported missing the preceding night, and deputies had recovered Hinckley's work vehicle approximately one mile from the burning garage.

When approached by the deputy, Hinckley put his hands behind his back and stated that he had "set the fire to protect himself." He explained that the sheriff and other law enforcement officers were trying to kill him, and that the fire was his attempt to summon the fire department, which he believed would protect him. Hinckley also admitted to the deputy that, in an effort to escape the area, he had stolen a van from the property owners before he started the fire.

Hinckley later spoke with an investigator at the scene. He told the investigator that, the night before, he had parked his work vehicle about a mile away and then ingested

methamphetamine. Thereafter, Hinckley began to believe that law enforcement officers were trying to kill him. He hid near a river for the rest of the night. The next morning, he walked to a home approximately one mile away, and he stole a van to evade the officers he believed were pursuing him. Hinckley told the investigator that he drove the van into a field, but it got stuck in mud. Then, he returned to the residence, entered the garage by breaking a window, piled items in the middle of the garage, and lit the items on fire. Hinckley explained that his intent was to prompt a response from the fire department, which he believed would save him.

Deputies arrested Hinckley. Respondent State of Minnesota charged Hinckley with first-degree arson, Minn. Stat. § 609.561, subd. 1 (2018), second-degree burglary, Minn. Stat. § 609.582, subd. 2(a)(1) (2018), and theft of a motor vehicle, Minn. Stat. § 609.52, subd. 2(a)(17) (2018).

Pretrial Proceedings

Hinckley's counsel requested a competency evaluation to assess both Hinckley's competence to participate in the legal proceedings and competence at the time of the offenses.[1] The district court ordered a psychological evaluation to determine his

[1] Rule 20 of the Minnesota Rules of Criminal Procedure provides for two different types of evaluations. An evaluation pursuant to rule 20.01 assesses whether a defendant is competent to participate in legal proceedings. *See* Minn. R. Crim. P. 20.01, subd. 2 ("A defendant is incompetent and must not plead, be tried, or be sentenced if the defendant due to mental illness or cognitive impairment lacks ability to . . . rationally consult with counsel; or . . . understand the proceedings or participate in the defense."). An assessment under rule 20.02 is performed when a defendant asserts the defense of mental illness, *see* Minn. Stat. § 611.026 (2018); Minn. R. Crim. P. 9.02, subd. 1(5), and its purpose is to determine whether a defendant was competent at the time of the alleged offense. *See* Minn. R. Crim. P. 20.02, subd. 4 (stating that if directed to do so by the district court, the evaluator

competence to participate in the legal proceedings,[2] and a court-appointed evaluator subsequently deemed Hinckley competent to proceed.

Hinckley notified the state and the district court that he intended to raise several defenses: mental impairment or illness at the time of the incident, voluntary intoxication, involuntary intoxication, and necessity. In support of his mental-illness defense, Hinckley provided a report prepared by a licensed psychologist.[3] According to that report, Hinckley suffered from the following mental health conditions: "Post-Traumatic Stress Disorder, Paranoid Personality Disorder, Persistent Depressive Disorder, Marijuana Use Disorder, Alcohol Use Disorder, and Stimulant Use Disorder."[4] The report also concluded that, while Hinckley had suffered from PTSD since he was a teenager, his mental status had decompensated rapidly once he started using methamphetamine. According to the report, Hinckley's methamphetamine use affected his ability to make clear and rational decisions.

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must provide a report with an opinion "as to whether, because of mental illness or cognitive impairment, the defendant, at the time of committing the alleged criminal act, was laboring under such a defect of reason as not to know the nature of the act or that it was wrong").

[2] The district court denied the motion for an evaluation of Hinckley's competence at the time of the offenses, recognizing that rule 20.02 provides district courts with discretion in ruling on such motions. In denying the motion, the district court determined that there was "no assertion that [Hinckley was] incompetent to proceed." The district court stated, "Nothing in this Order, however, shall be construed to prevent the Defense from retaining its own qualified examiner and pursuing the noted defense."

[3] Hinckley obtained his own expert after the district court granted his request for funding pursuant to Minnesota Statutes section 611.21 (2022).

[4] Our summary of the psychologist's report is based on the district court's publicly available orders in this matter.

In the psychologist's opinion, Hinckley was "actively mentally ill" and could not appreciate the wrongfulness of his actions on the day of the fire.

The state moved to bar Hinckley from raising a mental-illness defense, arguing that it was Hinckley's drug use that affected his functioning on the day of the fire, and that a voluntarily intoxicated defendant cannot rely on a mental-illness defense. In support of its motion, the state submitted a report prepared by a different psychologist, which concluded that Hinckley's actions were the result of his methamphetamine use, not mental illness.

The district court provisionally granted the state's motion. It stated that it was unclear whether the conclusions of Hinckley's psychologist "are based, in whole or in part, on [Hinckley]'s voluntarily intoxication due to use of methamphetamine versus other diagnoses unrelated to drug use."

Hinckley then moved for reconsideration and provided a supplemental report from his psychologist. The district court again denied Hinckley's motion because Hinckley

> failed to make a prima facie showing . . . that [Hinkley]'s failure to know the nature of the act or that it was wrong was caused by his mental illness. [Hinckley's psychologist's] reports consistently state that [Hinckley]'s failure to comprehend the nature of his acts or that they were wrong were caused, in whole or in significant part, by his use of methamphetamines.

Following the district court's second order denying his request to present a mental-illness defense, Hinckley again moved for reconsideration. He submitted a third report from his psychologist. The report stated that Hinckley's mental illness was not caused by his drug use but was exacerbated by it. According to the psychologist, it likely would be impossible to establish the degree to which Hinckley's mental state at the time of the

offenses was caused by drugs or his preexisting mental health issues. The district court denied Hinckley's third request to present a mental-illness defense.

Trial and Sentencing

Following the district court's denial of his motion to present a mental-illness defense and his motions for reconsideration, Hinckley waived his right to a jury trial. During the subsequent court trial, the state called a witness who had interacted with Hinckley on the day of the incident, the first deputy at the scene, the investigator who spoke with Hinckley, the property owners, and the fire marshal. Hinckley testified on his own behalf.

The district court found Hinckley guilty of all three charges—first-degree arson, second-degree burglary, and theft of a motor vehicle. It sentenced Hinckley to 58 months in prison for first-degree arson and imposed stayed sentences of 23 months for second-degree burglary and one year and one day for motor-vehicle theft.

DECISION

I. The district court did not abuse its discretion when it denied Hinckley's motion to present a mental-illness defense.

Hinckley challenges the district court's denial of his motion to present a mental-illness defense, arguing that his inability to present such a defense was structural error that requires a new trial. We disagree. Because Hinckley failed to meet the threshold requirement to present such a defense, the district court was within its discretion to deny the motion.

"Defendants have a due process right under the federal and Minnesota constitutions to assert a mental illness defense." *State v. Martin*, 591 N.W.2d 481, 486 (Minn. 1999);

U.S. Const. amend. XIV; Minn. Const. art. I, § 7. In Minnesota, this right is codified in Minnesota Statutes section 611.026 ("No person having a mental illness or cognitive impairment so as to be incapable of understanding the proceedings or making a defense shall be tried, sentenced, or punished for any crime . . . ."). A defendant asserting a mental-illness defense must prove that, at the time the offense took place,

> (1) the defendant did not know the nature of the act; (2) even if the defendant did, the defendant did not understand that the act was wrong; and (3) the defendant's failure to know the nature of the act or that it was wrong was the result of a defect of reason caused by mental illness or mental deficiency.

Martin, 591 N.W.2d at 486; *see also* Minn. Stat. § 611.026 ([A] person shall not be excused from criminal liability except upon proof that at the time of committing the alleged criminal act the person was laboring under such a defect of reason, from one of these causes, as not to know the nature of the act, or that it was wrong.").

To raise a mental-illness defense, a defendant must first provide notice of the defense to the district court and the state. Minn. R. Crim. P. 9.02, subd. 1(5). If a defendant asserts a mental-illness defense while maintaining a "not guilty" plea, "the court must separate the two defenses" and hold a bifurcated trial. Minn. R. Crim. P. 20.02, subd. 7(a). "The first stage of the trial determines the guilt of the defendant. If the defendant is found guilty, the second stage determines if the conduct should be excused because of mental illness." *Martin*, 591 N.W.2d at 486; *see also* Minn. R. Crim. P. 20.02, subd. 7.

However, the right to present a mental-illness defense is not absolute. *State v. McClenton*, 781 N.W.2d 181, 189 (Minn. App. 2010) ("The defendant's right to present witnesses is subject to the rules of procedure and evidence designed to assure fairness and

reliability in the determination of guilt." (quotation omitted)), *rev. denied* (Minn. June 29, 2010). To obtain a bifurcated trial, "[a] defendant must allege threshold evidence of mental illness or mental deficiency sufficient to raise a defense under each of the elements found in section 611.026." *Martin*, 591 N.W.2d at 487. In other words, "a defendant must present prima facie evidence of mental illness or mental deficiency." *Id.* And the defendant must make a prima facie showing that the defendant did not know the nature of the act or understand it was wrong because of a defect of reason caused by mental illness or mental deficiency. *Id.* at 486-87.

A prima facie showing is generally considered to be either "[t]he establishment of a legally required rebuttable presumption," or "[a] party's production of enough evidence to allow the fact-trier to infer the fact at issue and rule in the party's favor." *Black's Law Dictionary* 1441 (11th ed. 2019) (defining prima facie case); *see also Braylock v. Jesson*, 819 N.W.2d 585, 590 n.2 (Minn. 2012) ("We acknowledge that the term 'prima facie case' is a legal term of art that does not always carry the same meaning in every context. Rather, the specific quantum and quality of evidence that is necessary to establish a prima facie case may vary depending on the nature of the proceedings, the type of action involved, and the stage of the litigation.").

The district court determined that Hinckley failed to make a prima facie showing that his inability to appreciate the wrongfulness of his conduct was caused by his mental illness rather than his use of methamphetamine. An appellate court reviews a district court's denial of a motion to present a mental-illness defense for an abuse of discretion. *McClenton*, 781 N.W.2d at 189.

Hinckley argues that the district court's decision was an abuse of discretion for three reasons. First, he contends that his submissions, considered together, made a prima facie showing that his actions were the result of his mental illness, and the district court erred in concluding otherwise. We disagree. Although the submissions established that Hinckley was diagnosed with post-traumatic stress disorder, paranoid personality disorder, persistent depressive disorder, marijuana use disorder, alcohol use disorder, and stimulant use disorder, they did not state that mental illness was the cause of his defect of reason. Rather, Hinckley's psychologist reported that Hinckley's cognitive functioning and decision making were only affected once Hinckley began using methamphetamine. Moreover, according to Hinckley's psychologist, Hinckley's drug use was a "significant factor" that influenced his actions on the day in question. Indeed, as the psychologist made clear in the second supplemental report that Hinckley submitted to the district court, it was impossible to attribute the cause of Hinckley's mental state at the time of the offenses to either his mental illnesses *or* his drug use. Thus, Hinckley's proffered evidence did not make a prima facie showing that his actions were "the result of a defect of reason caused by mental illness." *Martin*, 591 N.W.2d at 486; *see also* Minn. Stat. § 611.026. At best, the evidence showed that, to a significant extent, Hinckley's behavior was attributable to voluntary intoxication. And Minnesota courts have long held that "mental illness caused by voluntary intoxication is not a defense." *Martin*, 591 N.W.2d at 486.

To support his argument that the district court abused its discretion in finding no prima facie showing, Hinckley points to two cases. In the first case, *State v. Lee*, 491 N.W.2d 895 (Minn. 1992), the Minnesota Supreme Court affirmed the district court's

denial of the defendant's mental-illness defense because it was untimely raised. *Id.* at 900. But the court remarked that "[i]t would have been arbitrary for the trial court to bar the mental illness defense" on the basis of the "skimpiest possible" record supporting the defense. *Id.* The supreme court's statement regarding a "skimpy" record was likely dicta. However, even if it was not, *Lee* was decided seven years before *Martin*, where the supreme court held that a defendant seeking to raise a mental-illness defense must "allege threshold evidence of mental illness or mental deficiency sufficient to raise a defense under each of the elements found in section 611.026." *Martin*, 591 N.W.2d at 487. The supreme court went on to identify that "threshold" to be "prima facie evidence of mental illness or mental deficiency." *Id.*

Hinckley also cites our nonprecedential opinion in *State v. Schroyer*, No. A14-0855, 2015 WL 1880204 (Minn. App. Apr. 27, 2015). There, we reversed the defendant's convictions because the defendant had "produced evidence that might persuade a reasonable fact finder that his inability to appreciate the nature of his act resulted from mental illness." *Schroyer*, 2015 WL 1880204, at *1. Aside from being nonprecedential, and thus not binding authority, *see* Minn. R. Civ. App. P. 136.01, subd. 1(c), *Schroyer* is factually distinguishable from Hinckley's case. In *Schroyer*, there was "nearly undisputed evidence" that—drugs aside—the defendant was suffering from mental illness, which impacted his ability to perceive the wrongness of his actions on the day leading up to the offense. 2015 WL 1880204, at *3. That evidence established that, just four days before his arrest, the defendant had been hospitalized because he was in a psychotic state. *Id.* Thus, the issue in *Schroyer* was whether a person *who was already suffering from extreme*

mental illness could raise the defense if the person also ingested substances while in a psychotic state. Here, on the other hand, the record does not show that Hinckley was suffering from a defect of reasoning caused by mental illness before he ingested methamphetamine. And Hinckley's expert stated it was impossible to determine that mental illness versus substance use contributed to Hinckley's actions.

We are not persuaded by either of the cases cited by Hinckley that the district court abused its discretion in determining that Hinckley's evidence failed to make a prima facie showing that his actions on the day of the offenses were attributable to mental illness. Because Hinckley's submissions were inadequate to satisfy this threshold requirement, we discern no abuse of discretion.

Second, Hinckley asserts that the district court abused its discretion when it failed to properly evaluate the evidence he submitted in support of his mental-illness defense. He contends that the district court weighed the evidence by also referencing the psychological evaluations submitted by the state. And he argues that, in denying his mental-illness defense, the district court relied on facts not in the record. Again, we disagree. In determining whether a defendant has presented a prima facie case to support a mental-illness defense, the district court must not weigh the evidence. *See Martin*, 591 N.W.2d at 487. Although the district court referenced the state's evidence in its first order, it did not weigh Hinckley's evidence against the state's evidence in determining whether Hinckley had made a prima facie showing. Its determination of that issue was based on Hinckley's evidence alone. The district court stated that "[d]ue to the lack of clarity" in the report submitted by Hinckley's psychologist, Hinckley had not "made a prima facie showing of

mental illness or cognitive impairment that is not the result of voluntary intoxication." Moreover, in the subsequent orders denying Hinckley's motions to reconsider, the district court did not mention the state's evidence. We also reject Hinckley's argument that by noting that Hinckley was intoxicated on the day of the offense, the district court relied on evidence outside of the record. Evidence that Hinckley had ingested methamphetamine was in the record. During his competency-to-proceed evaluation, Hinckley admitted that he had ingested methamphetamine before committing the offenses. And during a hearing regarding Hinckley's motion to rely on a mental-illness defense, Hinckley's lawyer acknowledged that there was "undisputable evidence" that Hinckley was voluntarily intoxicated.

Finally, Hinckley contends that the district court abused its discretion by denying his motion to present a mental-illness defense based on the mistaken conclusion that such a defense is "legally inconsistent" with a voluntary-intoxication defense. Hinckley cites no legal authority to support this argument. And the record does not support it. The district court made clear that its decision was not based on any legal inconsistency in the defenses. Rather, the district court explained that its decision was based on the principle that mental illness caused by voluntary intoxication is not a valid defense. The district court stated:

> While the Court is denying the motion for reconsideration based upon the Defense's failure to make a prima facie showing that it is entitled to a bifurcated trial on the mental illness defense and because mental illness caused by intoxication is not a defense, the Court is also concerned that the Defense is raising two legally inconsistent defenses . . . .

In its well-reasoned orders, the district court explained that Hinckley's submissions failed to make a prima facie showing that mental illness was the cause of his defect in reasoning at the time of the offenses. The district court was within its discretion to deny Hinckley's motion to present a mental-illness defense.

II. The district court did not err in determining that the motor-vehicle theft occurred during a separate behavioral incident.

Hinckley argues that the district court erred when it concluded that the motor-vehicle theft occurred during a separate behavioral incident from the burglary and arson, and when it sentenced him for that offense. We disagree. The district court did not err in determining that the motor-vehicle theft arose from a separate behavioral incident. Thus, Hinckley's sentence for that offense is not unlawful, and the district court did not err in including the motor-vehicle theft in Hinckley's criminal history score when calculating the presumptive sentences for the other two offenses.[5]

"[T]he law generally 'prohibits multiple sentences, even concurrent sentences, for two or more offenses that were committed as part of a single behavioral incident.'" *State v. Bakken*, 883 N.W.2d 264, 270 (Minn. 2016) (quoting *State v. Ferguson*, 808 N.W.2d 586, 589 (Minn. 2012)); *see also* Minn. Stat. § 609.035, subd. 1 (2018) ("[I]f a person's conduct constitutes more than one offense under the laws of this state, the person may be punished for only one of the offenses . . . ."). This principle protects a defendant convicted of multiple offenses from "unfair exaggeration of the criminality of his conduct." *State v.*

[5] The district court included the motor-vehicle theft in Hinckley's criminal history score pursuant to Minnesota Sentencing Guidelines 2.B.1(e) (2018).

Johnson, 653 N.W.2d 646, 651 (Minn. App. 2002). The state has the burden of proving that offenses are part of separate behavioral incidents. *Id.* at 652.

Whether multiple offenses arose from a single behavioral incident "depends on the facts and circumstances of the case." *State v. Jones*, 848 N.W.2d 528, 533 (Minn. 2014) (citing *State v. Hawkins*, 511 N.W.2d 9, 13 (Minn. 1994)). Courts should consider two primary factors: "(1) whether the offenses occurred at substantially the same time and place, and (2) whether the conduct was motivated by an effort to obtain a single criminal objective." *State v. Barthman*, 938 N.W.2d 257, 265-66 (Minn. 2020) (citations and quotations omitted); *see also Johnson*, 653 N.W.2d at 651-52 (stating that whether multiple offenses are a part of a single behavioral incident is determined by examining (1) "whether the defendant was motivated by a desire to obtain a single criminal objective," (2) if the offenses "arose from a continuous and uninterrupted course of conduct," (3) if the offenses "occurred at substantially the same time and place," and (4) whether the defendant "manifested an indivisible state of mind" (quotations omitted)). Conduct is motivated by a single criminal objective if the "acts performed were necessary to or incidental to the commission of a single crime and motivated by an intent to commit that crime." *Barthman*, 938 N.W.2d at 267 (quoting *State v. Krampotich*, 163 N.W.2d 772, 776 (Minn. 1968)). But "broad statements of criminal purpose do not unify separate acts into a single course of conduct." *Id.* (quotation omitted).

Whether multiple offenses arose during a single behavioral incident presents a mixed question of law and fact. *Bakken*, 883 N.W.2d at 270. An appellate court reviews the district court's findings of fact for clear error and application of the law de novo. *Id.*

Hinckley argues that his offenses of motor-vehicle theft, burglary, and arson occurred during a single behavioral incident motivated by a singular objective—a desire to escape from law enforcement officers who he believed were pursuing him. In support of this argument, he compares his case to *State v. Krech*, 252 N.W.2d 269 (Minn. 1977). There, the defendant committed multiple traffic violations while fleeing from police and, during this episode, also attempted to hit a police officer with his car. *Id.* at 271-72. The Minnesota Supreme Court determined that all of the offenses occurred during the course of a single behavioral incident—one continuous car chase during which the defendant hoped to evade law enforcement officers. *Id.* at 273.

Unlike *Krech*, however, Hinckley's offenses involved separate motivations and distinct acts. Hinckley initially stole a van for the purpose of leaving the area. When the vehicle got stuck in mud, he later returned to the residence with a new objective. At that point, his objective was to start a fire to attract firefighters. Moreover, unlike the circumstances in *Krech*, Hinckley's offenses did not involve a single uninterrupted course of conduct. Hinckley first stole the vehicle. Then, afterwards, he broke into the garage and started the fire. We accordingly conclude that the district court did not err in determining that Hinckley's conviction for motor-vehicle theft was committed during a separate behavioral incident, and that the district court properly imposed a separate sentence for this offense.

Affirmed.